

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DECOLE PERKINS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-19-00461-PRW
)	
OU MEDICINE,)	
)	
Defendant.)	

ORDER

On May 29, 2019, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation (Dkt. 4) in this action. The Magistrate Judge recommends that Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Dkt. 2) be denied because the "Plaintiff declares she has \$4,000.00 in cash or in a checking/savings account" and therefore "does not qualify for authorization to proceed without prepayment of the filing fee."¹ The Magistrate Judge further recommends that the action be dismissed without prejudice to refiling unless the Plaintiff pays the full \$400.00 filing fee within 20 days of any order adopting the Report and Recommendation.

The Plaintiff was advised that she had a right to object to the Report and Recommendation by June 17, 2019, and that failure to make a timely objection would waive any right to appellate review of the *in forma pauperis* issue. The Plaintiff timely filed her Objection to R & R (Dkt. 5) on June 17, 2019, asserting that she had been out of

¹ R. & R. (Dkt. 4) at 1.

work since May 1, 2019 and that she therefore needs her \$4,000.00 for monthly living expenses. Consequently, the Plaintiff still desires a waiver of the \$400.00 filing fee.

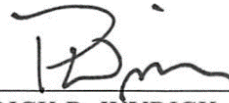
Although the Plaintiff alleges unemployment and lack of income, her filings indicate that she still has the ability to pay the \$400.00 filing fee. As of May 23, 2019, the Plaintiff had \$4,000.00 at her disposal.² The passage of nearly one month since then has likely caused the Plaintiff to expend some of those funds on the monthly expenses she listed in her Application—i.e., \$1,780.00 in expenses related to rent, utilities, a car loan, and student loans. But the Plaintiff should still have a remaining balance that affords her the ability to pay the \$400.00 filing fee. Moreover, upon review of the allegations in Plaintiff’s Complaint (Dkt. 1), it appears she should have no difficulty finding alternative employment. After all, she has an associate’s degree in Medical Laboratory Technology; she left her employment at the OU Medical Center voluntarily; and, as recently as September of 2018, she demonstrated an ability to apply for and receive multiple job offers.

Accordingly, upon *de novo* review, the Court:

- (1) **ADOPTS** in full the Report and Recommendation (Dkt. 4) issued by the Magistrate Judge on May 29, 2019. The recommendation both to deny the application to proceed without prepayment of the filing fee and to dismiss the action without prejudice to refiling in the event Plaintiff fails to pay the filing fee within 20 days—i.e., on or before Monday, July 8, 2019—is adopted; and
- (2) **DENIES** Plaintiff’s Application to Proceed in District Court Without Prepaying Fees or Costs (Dkt. 2).

² Pl.’s Appl. to Proceed in Dist. Ct. Without Prepaying Fees or Costs (Dkt. 2) at 2.

IT IS SO ORDERED this 19th day of June, 2019.

A handwritten signature in black ink, appearing to read 'P. Wyrick', is positioned above a horizontal line.

PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE